P3E/ O/Trade Marks/53

1953.

**File No.** 79/53

Legal Department

C BRANCH

**Subject:—**

Opinions Under the

Trade Marks Act 1940.

O/ Trade Marks/53

**File No.**

79/53

Gen. 194 o.

CONTENTS.

O. Correspondence trade Marks/53

Legal Department File No..... (G-79)

| P.No. | R.I./O.No. | Subject | Pages. |
|---|---|---|---|

Opinions under the Trade Marks Act, 1940.

[redacted] 426/22-7-53.

1) What steps should be taken by Govt. to legally prevent others in the Milk trade from using in the Greater Bombay area Milk bottles of the type and shape used for the Govt. Milk Scheme and also the sealing caps of the colour and design as used for the scheme,
2) What other steps could legally be taken to safeguard the customers' interest without much difficulty.

1-2.

PHB 13/8

NMB 13/8

Local Treatment.

The Milk Commissioner, Bombay fears that use by private dairymen of milk bottles of identical size and shape as used in the Government Milk Scheme would mislead the customers and therefore desires that a decision on the following points :-

(1) What step should be taken by Government to legally prevent others in the milk-trade from using for the greater Bombay area milk bottles of the shape and type used for the Government Milk Scheme and also selling caps of the colour and design as used for the scheme.

(2) What other steps could legally be taken to safeguard the customers' interest without much difficulty.

Section 69(2) of the Trade Marks Act, 1940 inter alia provides that if a person without due authority, used in connection with any trade, business, calling or profession any device, emblem or title in such manner as to be calculated to lead to the belief that he is employed by or supplies goods to or is connected with any State Government or any department of any State Government, he may, at the suit of any person authorised to use such device, emblem or title, be restrained by injunction from continuing to use the same. If anybodyuses milk bottles of the shape and type

used for the Government Milk Scheme with the words "Government of Bombay" embossed on them, action can be taken against him under the above section of the Trade Marks Act. If only bottles of the same size and shape are used by private dairymen without the words "Government of Bombay" embossed on them and without indential seals, it does not appear that any objection can be taken to such a user as the shape of the bottle is a feature common to the Dairy trade.

As regards the seal the one attached to these papers would show that the "Ashok Chakra" and the words "Bombay Milk Scheme" are impressed on them. If anybody uses such seals along with the bottles of the same type as used for the Bombay Milk Scheme, action under section 69 of the Trade Marks Act will be possible as such any action would be construed as using for the purposes of trade a device calculated to lead to the belief that the person using such bottles and seals is connected with the State Government's Milk Scheme.

The devices adopted under the Government Milk Scheme to eliminate chances of imitation and fraud seem sufficient to safeguard the customers' interest. The customers should also be on their alert while buying their quota.

Sd/-
o/c Secretary to Government.

U.R. to M.C.7 No. G- 428, dated the 22nd July 1953.

MM 7/8-